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Institut Akauntan Malaysia v Kok Kon Sang

B HIGH COURT (KUALA LUMPUR) — ORIGINATING SUMMONS NO WA-24NCvC-1904–06 OF 2022
ROZ MAWAR JC
4 DECEMBER 2023

C *Civil Procedure — Declaration — Application for — Whether defendant had habitually and persistently instituted vexatious legal proceedings against plaintiff without reasonable cause*

D The plaintiff's suit was a matter of significant legal consequence concerning the persistent litigation behaviour of the defendant. The plaintiff was a statutory body established under the Accountants Act 1967 while the defendant was a chartered accountant and also a registered member of the plaintiff. The defendant faced actions by the plaintiff's Disciplinary Committee where it was E found that the defendant had committed an act amounting to 'unprofessional conduct' within the meaning defined in r 2 of the Malaysian Institute of Accounts (Disciplinary) Rules 2002. The defendant, dissatisfied with the decision of the plaintiff's Disciplinary Committee, started to embark on his legal actions against the plaintiff. The defendant had filed 12 separate legal F proceedings and 19 interlocutory applications against the plaintiff over a period of ten years in the courts of Malaysia at different levels, all related to the same facts and issues. The courts had previously found the defendant's proceedings to be scandalous, frivolous and vexatious. The plaintiff filed this originating summons ('encl 1') and the affidavit in support together with three G volumes of exhibits were served on the defendant. Instead of filing an affidavit in reply to the plaintiff's suit, the defendant had instead filed an interlocutory application to strike out the plaintiff's affidavit in support of its application. Yet, no reply was filed and there was no application for leave to extend/enlarge time to allow the filing of his affidavit in reply. The defendant had also ignored H the court's direction to file the submissions for the hearing of encl 1. The directions were repeated a few more times during the hearing of the interlocutory applications filed by the defendant. Nonetheless, the defendant failed to file its written submissions on encl 1.

I **Held:**

(1) The defendant most certainly had that habit to file legal proceedings against the plaintiff. He persistently and repeatedly filed for the same prayers over the same set of facts and issues even after the courts had adjudicated on the matters. The plaintiff (and the courts) had to

repeatedly allocate previous resources, time and costs to deal with each matter. It was necessary to declare the defendant as a vexatious litigant to prevent further abuse of the court process. The defendant's persistent filing of frivolous, meritless, or duplicative claims had not only burdened the courts and the plaintiff but had also undeniably hindered the fair administration of justice. The defendant was barred from initiating any further legal proceeding in any courts in Malaysia, except with the leave of the High Court of Malaya (see paras 40, 42–44 & 48)

[Bahasa Malaysia summary

Saman plaintif adalah perkara yang mempunyai akibat undang-undang yang ketara mengenai tingkah laku litigasi berterusan defendan. Plaintif adalah sebuah badan berkanun yang ditubuhkan di bawah Akta Akauntan 1967 manakala defendan adalah seorang akauntan bertauliah dan juga ahli berdaftar plaintif. Defendan berhadapan dengan tindakan oleh Jawatankuasa Tatatertib plaintif di mana defendan didapati telah melakukan perbuatan yang merupakan 'perbuatan tidak profesional' dalam maksud yang ditakrifkan dalam k 2 Kaedah-Kaedah Institut Akaun Malaysia (Tatatertib) 2002. Defendan, tidak berpuas hati dengan keputusan Jawatankuasa Tatatertib plaintif, mula memulakan tindakan undang-undangnya terhadap plaintif. Defendan telah memfailkan 12 prosiding undang-undang berasingan dan 19 permohonan interlokutori terhadap plaintif dalam tempoh sepuluh tahun di mahkamah Malaysia di peringkat berbeza, semuanya berkaitan dengan fakta dan isu yang sama. Mahkamah sebelum ini mendapati prosiding defendan sebagai bersifat skandal, remeh dan menyusahkan. Plaintif memfailkan saman pemula ini ('lampiran 1') dan afidavit sokongan bersama tiga jilid ekshibit telah disampaikan kepada defendan. Daripada memfailkan afidavit jawapan kepada saman plaintif, defendan sebaliknya memfailkan permohonan interlokutori untuk membatalkan afidavit plaintif bagi menyokong permohonannya. Namun, tiada jawapan difailkan dan tiada permohonan untuk kebenaran melanjutkan/memperbesar masa untuk membenarkan pemfailan afidavit balasannya. Defendan juga telah tidak mengendahkan arahan mahkamah untuk memfailkan hujahan bagi pendengaran lampiran 1. Arahan itu diulang beberapa kali lagi semasa pendengaran permohonan interlokutori yang difailkan oleh defendan. Namun begitu, defendan gagal memfailkan hujahan bertulisnya pada lampiran 1.

Diputuskan:

(1) Defendan secara jelas mempunyai tabiat itu untuk memfailkan prosiding undang-undang terhadap plaintif. Beliau secara berterusan dan berulang kali memfailkan permohonan yang sama atas set fakta dan isu yang sama walaupun selepas mahkamah mengadili perkara itu. Plaintif (dan mahkamah) terpaksa berulang kali memperuntukkan sumber, masa dan kos sebelumnya untuk menangani setiap perkara. Adalah perlu untuk

mengisytiharkan defendan sebagai seorang pelitigasi yang menyusahkan untuk mengelakkan penyalahgunaan proses mahkamah selanjutnya. Pemfailan berterusan defendan bagi tuntutan remeh, tidak bermerit, atau berganda bukan sahaja membebankan mahkamah dan plaintif tetapi jugatidak dapat dinafikan menghalang pentadbiran keadilan yang adil. Defendan telah dihalang daripada memulakan sebarang prosiding undang-undang selanjutnya di mana-mana mahkamah di Malaysia, kecuali dengan kebenaran Mahkamah Tinggi Malaya (lihat perenggan 40, 42–44 & 48).]

Cases referred to

Abdul Razak Ahmad v Majlis Bandaraya Johor Bahru [1995] 2 MLJ 287, HC (refd)

American Express (M) Sdn Bhd v Matthias Chang Wen Chieh [2012] 7 MLJ 489, HC (refd)

Attorney-General v Lai Swee Lin Linda [2015] 5 SLR 1447; [2015] SGHC 269, HC (refd)

Ng Hee Thoong & Anor v Public Bank Bhd [1995] 1 MLJ 281, CA (refd)

Sim Kooi Soon v Malaysia Airlines System (No 2) [2011] 4 MLJ 728, CA (refd)

Yan bt Mohd Noordin (sebagai pentadbir pesaka kepada harta pusaka Hj Nordin bin Ayub @ Mat Nordin bin Yeop, si mati) v Kamal Baharein bin Nordin & Ors [2022] MLJU 2587, HC (refd)

Legislation referred to

Accountants Act 1967

Courts of Judicature Act 1964 s 68(1)(a), Schedule, para 17

Malaysian Institute of Accounts (Disciplinary) Rules 2002 r 2

Rules of Court 2012 O 14, O 14A, O 18, O 52 r 3, O 55 rr 2, 3

Rules of the Court of Appeal 1994 r 16

Nadeem bin Rafiq (with Ng Yee Lin) (Steven Thiru & Sudhar Partnership) for the plaintiff.

Kok Kon Sang for the defendant.

Roz Mawar JC:

THE SUIT

[1] The plaintiff's suit is a matter of significant legal consequence concerning the persistent litigation behaviour of the defendant. A fundamental principle of our judicial system is to ensure fair and equitable access to the courts for all individuals seeking justice. However, there exist instances where the repetitive and relentless initiation of lawsuits and legal actions become undue burden on the judicial process, impeding its efficacy and undermining its purpose.

[2] The designation of someone as a vexatious litigant cannot be made lightly. This court must be satisfied that it signified a pattern of conduct wherein the defendant habitually files lawsuits, motions, interlocutory application or appeals that lack legal merit, aim to harass or burden opposing parties, or serve to pursue frivolous claims.

[3] A result of this court's exercise of careful deliberation of the plaintiff's application, the prayers sought for were granted and this court hereby declared the defendant a vexatious litigant.

THE HEARING OF THE PLAINTIFF'S APPLICATION

[4] The plaintiff filed this suit on 29 June 2022. The originating summons (OS) which is encl 1 and the affidavit in support (encl 2) together with three volumes of exhibits (encl 3 to encl 5) were served on the defendant on the 1 July 2022. Instead of filing an affidavit in reply to the plaintiff's suit, the defendant had instead filed an interlocutory application under O 41 r 6 and O 52 r 3 of the Rules of Court 2012 ('the ROC') to strike out the plaintiff's affidavit in support of its application. In fact, the defendant had filed nine interlocutory applications in this suit alone.

[5] Yet, no reply was filed. This court noted that there was no application for leave to extend/enlarge time to allow the filing of his affidavit in reply. The defendant had also ignored this court's direction on 26 October 2022 to file the submissions for the hearing of encl 1. The directions were repeated a few more times during the hearing of the interlocutory applications filed by the defendant. Nonetheless, the defendant failed to file its written submissions on encl 1.

[6] At the hearing on 22 November 2023 where this court disposed of two of the defendant's applications namely encl 118 and 121, he walked out of court when encl 1 was called up for arguments on the basis that he was not ready. Exercising patiencle, this court then postponed the hearing of encl 1 to 27 November 2023. The hearing of the defendant's application encl 136 was also adjourned to 27 November 2023. The plaintiff had informed and reminded him vide its solicitors' letter dated 23 November 2023 (encl 157) of the scheduled hearing which was fixed at 10.30am.

[7] On 27 November 2023 the defendant did not turn up in court — so as he had demonstrated he was no longer interested to pursue his interlocutory application encl 136, it was dismissed with costs. However, this court still refrained to proceed with encl 1 although it was the fourth time this court fixed to hear the hearing of the arguments on encl 1. The learned counsel for the plaintiff was gracious in not objecting to vacate the hearing of arguments for

encl 1, to 4 December 2023. This court, accorded mercy and postponed the hearing of encl 1 and fixed it at 11.30am to allow sufficient time for the defendant who had complained to this court that there was limited parking at the Court Complex, Kuala Lumpur.

[8] The plaintiff wrote to the defendant this time on 27 November 2023 and again on 30 November 2023 (encl 162). The plaintiff had informed him of the hearing date of 4 December 2023 (encl 164).

[9] On 1 December 2023 this court received a letter from the defendant dated 28 November 2023 addressed to the plaintiff (encl 171) that attached an application for an injunction against the plaintiff that the defendant filed at the High Court of Malaya at Shah Alam on the even date. There was also another letter from the defendant dated 28 November 2023 to the plaintiff (encl 172) that stated the defendant was at Universiti Hospital Petaling Jaya on 27 November 2023, attached was a receipt with a time stamped 11:42:01am. The defendant stated that 'I have an important personal matters on 4 December 2023. Please be informed accordingly'.

[10] There was no application by the defendant to adjourn the hearing of encl 1 on 4 December 2023. Enclosure 1 was filed almost a year and half awaiting hearing. Thus, on that day at 11.30am this court proceeded to hear encl 1 without the presencle of the defendant. It is this court's observation that the defendant had illustrated much disregard and disrespect to this court and the justice system in his unreasonable and unacceptable behaviour.

THE PARTIES

[11] The plaintiff is a statutory body established under the Accountants Act 1967 and is also a non-profit regulatory body that regulates the conduct of professional accounts in Malaysia.

[12] The defendant is a chartered accountant practising under the name and style of Messrs Eddie Kok & Co ('the firm'). He is also a registered member of the plaintiff. For this suit, he represented himself. Though this court had advised him to hire a legal counsel, he responded that no lawyer wanted to take his case. This court also noted that he had all the while represented himself in all those earlier proceedings.

THE HISTORY PRIOR TO THE LEGAL ACTIONS UNDERTAKEN BY THE DEFENDANT

[13] The defendant faced actions by the plaintiff's Disciplinary Committee — charges were preferred against him for his failure to abide the By-Laws (on

Professional Ethics, Conduct and Practice) of the Malaysian Institute of Accountants 2007 and the By-Laws (on Quality Assurance and Practice Review) of the Malaysian Institute of Accountants 2002 on 18 March 2011 (Disciplinary Committee Case No DC-115–2011–02) and on 22 September 2011.

[14] The defendant's charges were for: (i) failure to ensure that the Firm had purchased and maintained a policy of Professional Indemnity Insurance from the commenclement of public practice to 15 June 2010; and (ii) failure to return the duly completed Practice Review Questionnaire for the plaintiff from May 2005 to July 2007. Upon hearing the evidencle, the plaintiff's Disciplinary Committee unanimously held that the charges were proven.

[15] Pursuant to the plaintiff's Disciplinary Committee's finding that the defendant had committed an act amounting to 'unprofessional conduct' within the meaning defined in r 2 of the Malaysian Institute of Accounts (Disciplinary) Rules 2002, the following sentencles were imposed on the defendant:

(a) a fine of RM4,000 for each of the two cases — a total of RM8,000;

(b) an order that the defendant be reprimanded for both the cases; and

(c) an order that the defendant pays the plaintiff a sum of RM3,000 in each of the two cases in respect of costs and expenses.

[16] The defendant, dissatisfied with the decision of the plaintiff's Disciplinary Committee, started to embark on his legal actions against the plaintiff. On 7 June 2012 he filed a judicial review application at the Kuala Lumpur High Court ('first proceedings'). This was struck out under O 14A of the ROC on 26 February 2013 where the High Court had found the plaintiff's first proceedings frivolous and vexatious and dismissed the defendant's interlocutory application to strike out the plaintiff's application under O 18 of the ROC. Global costs of RM5,000 was awarded to the plaintiff.

[17] The defendant then appealed against this decision. The Court of Appeal dismissed his appeal on 3 March 2014 ('second proceedings') with costs of RM5,000. The High Court's ruling that his action was frivolous and vexatious was affirmed.

[18] Upon the defendant's failure to pay the costs ordered by the High Court and the Court of Appeal despite repeated demands, the plaintiff on 30 November 2017 filed a claim at the Kuala Lumpur Magistrate Court ('civil suit'). On 3 January 2018 the defendant filed its third proceedings against the plaintiff for damages of RM100,000 purportedly from his loss of income and

damage to his reputation. The facts and issues raised by the defendant in his third proceedings were the same as those in the first and second proceedings. On 8 June 2017 the magistrate court struck out the third proceedings on the basis that it was scandalous, frivolous and vexatious. Costs of RM2,000 was ordered to be paid by the defendant to the plaintiff.

[19] In addition to that third proceedings, the defendant had also filed five other interlocutory applications in the civil suit. They included his application to transfer the civil suit to the Shah Alam Magistrate Court, striking out, review of costs awarded by the magistrate court, to transfer to another Kuala Lumpur High Court and to stay. Every one of the five interlocutory application were dismissed with costs. The total costs ordered to be paid by the defendant for all the interlocutory applications was RM4,000.

[20] The defendant thereafter appealed the magistrate court's decision to dismiss his application to strike out the plaintiff's civil suit ('fourth proceedings'). On 6 July 2018 the High Court dismissed the defendant's appeal with costs of RM1,000.

[21] As to the magistrate court's decision of 8 June 2018 to strike out the defendant's claim for loss of income and damage to his reputation, and also the magistrate court's dismissal of the defendant's interlocutory application to review costs awarded, the defendant had also appealed to the High Court ('fifth proceedings'). On 30 November 2018 the High Court struck out the defendant's appeal pursuant to O 55 rr 2 and 3 of the ROC on the grounds that they were incompetent and invalid in law. The finding of the magistrate court that the defendant's interlocutory applications were scandalous, frivolous and vexatious was affirmed. Costs of RM4,000 was awarded to the plaintiff by the High Court in the fifth proceedings.

[22] The defendant was dissatisfied with that decision of the High Court so he pursued an appeal to the Court of Appeal ('sixth proceedings'). On 1 October 2019 the Court of Appeal allowed the plaintiff's application to strike out the sixth proceedings under s 68(1)(a) of the Courts of Judicature Act 1964 ('the CJA') and r 16 of the Rules of the Court of Appeal 1994. In striking out the defendant's appeal, the Court of Appeal affirmed the findings and judgments of the High Court and the magistrate court, amongst others that the defendant's third court proceedings was scandalous, frivolous and vexatious.

[23] The defendant had also appealed against the magistrate court's dismissal of his interlocutory application to stay in the civil suit. This seventh proceedings at the High Court resulted in the dismissal of his appeal on 9 March 2020. The High Court ordered costs of RM3,000 to be paid by the defendant to the plaintiff.

[24] The defendant continued to file a further civil suit against the plaintiff on the same cause of action and issues as the third proceedings, at the Shah Alam Session Court ('eighth proceedings'). The defendant demanded again damages purportedly arisen from his loss of income and damage to his reputation. The defendant claimed for RM250,000. In this eighth proceedings, there were interlocutory applications — the defendant filed an application for summary judgment under O 14 of the ROC and the plaintiff filed an application to strike out the claim under O 18 of the ROC. On 12 April 2019 the sessions court allowed the striking out application by the plaintiff and dismissed the summary judgment application by the defendant. Costs of RM5,000 was ordered to be paid by the defendant to the plaintiff. Consequently, the sessions court found that the eighth proceedings was scandalous, frivolous and vexatious.

[25] The defendant appealed against this decision by the sessions court but separately hencle two appeals (ninth and tenth proceedings). On 5 November 2019 the High Court allowed for both ninth and tenth proceedings to be consolidated. On 29 July 2020 the High Court dismissed both appeals of ninth and tenth proceedings. Costs of RM5,000 for each proceedings were awarded to the plaintiff. The findings of the sessions court that the proceedings launched by the defendant were scandalous, frivolous and vexatious were affirmed.

[26] The defendant then went on to file an interlocutory application against this High Court order of 29 July 2020. The 11th proceedings initiated by the defendant was made under O 14A of the ROC to purportedly raise questions of law pertaining to the plaintiff's striking out application. On 6 December 2021 the High Court dismissed the defendant's interlocutory application (his 15th) with costs of RM5,000.

[27] The defendant had also lodged an appeal to the Court of Appeal against the High Court order to consolidate ninth and tenth proceedings. In this 11th proceedings before the Court of Appeal, the plaintiff filed a motion to strike out the appeal on the grounds that the same was scandalous, frivolous and vexatious. The Court of Appeal struck out the defendant's 11th proceedings with costs of RM5,000. The Court of Appeal had consequently adjudicated that the proceedings of the defendant were scandalous, frivolous and vexatious.

[28] The defendant was dissatisfied with the order by the Court of Appeal and had filed an interlocutory application (his 16th) on 2 July 2021 to set it aside. There were also three other interlocutory applications filed by the defendant in the 11th proceedings. One was to consolidate his 11th and 12th proceedings (his 17th interlocutory application), the other (his 18th

A interlocutory application) was to stay his ninth proceedings pending the disposal of his 17th interlocutory application. The third was to strike out the plaintiff's affidavit in reply to the 17th and 18th interlocutory applications (his 19th interlocutory applications).

B **[29]** There is a 12th proceedings initiated by the defendant — an appeal to the Court of Appeal on his dissatisfied over the High Court order of 6 December 2021 dismissing his 15th interlocutory application.

C **[30]** Then witnessed by this court itself are the interlocutory applications filed in this suit. Reality surpassed imagination in this instance before this court. The defendant is taken to have refused to reply to the plaintiff's claim but he had instead filed a total of nine interlocutory applications within seventeen months in this suit. They are:

D (a) encl 7 filed on 12 July 2022 — the defendant's application to strike out the plaintiff's affidavit in support of this suit encl 1;

(b) encl 13 filed on 8 August 2022 — the defendant's application under O 14A and a stay of encl 1;

E (c) encl 39 filed on 10 March 2023 — the defendant's application to stay encl 1 pending replies from the Right Honourable Chief Justice and the Right Honourable Chief Judge of Malaya;

(d) encl 5 filed on 5 May 2023 — the defendant's application to strike out F another of the plaintiff's affidavit and a stay of encl 1;

(e) encl 86 filed on 5 July 2023 — the defendant's application to transfer this suit to the Shah Alam High Court and a stay of encl 1;

(f) encl 98 filed on 16 August 2023 — the defendant's stay application of G encl 1 pending the disposal of his appeal at the Court of Appeal against this court's order dismissing his stay application (encl 39);

(g) encl 118 filed on 29 September 2023 — the defendant's application to transfer this suit to Shah Alam High Court and a stay of encl 1; and

H (h) encl 136 filed on 7 November 2023 — the defendant's application to convert this OS suit into a writ action.

[31] This court had dismissed all the interlocutory applications filed by the defendant in this suit. Some were repetitive. They were all without merits and I were scandalous, frivolous and vexatious. In particular the stay application (encl 29) filed on the basis that he was awaiting response from the Right Honourable Chief Justice and Right Honourable Chief Judge of Malaya. The responses were to his query for confirmation as to whether he was blacklisted by the courts as he had not been successful in any of the legal proceedings, and to

his request that this suit be heard by this court's learned predecessor. The plaintiff had discovered vide a court search in the defendant's other proceedings in other courts, that the responses were received from the Right Honourable Chief Justice and the Right Honourable Chief Judge of Malaya in March 2023. The latter he had received prior to the filing of encl 39 in this court to seek a stay and the former the defendant received a week after filing in encl 39. He had them in his possession prior to the hearing of arguments of encl 39. This court dismissed encl 39 with costs.

[32] This court noted that the Right Honourable Chief Justice had conducted an investigation of the proceedings embarked by the defendant and found that at each level, the courts had adjudicated according to the facts and the laws applicable.

THE ASSESSMENT BY THIS COURT

[33] The learned counsel for the plaintiff had commencled his submissions by emphasising the necessity of this application. In assessing whether the defendant has habitually and persistently instituted vexatious legal proceedings against the plaintiff without reasonable cause, this court's attention was invited view to the cause papers of previous proceedings. The documents show the defendant had filed twelve separate legal proceedings and nineteen interlocutory applications against the plaintiff over a period of ten years in the courts of Malaysia at different levels, all related to the same facts and issues.

[34] The facts showed that the courts have previously found the defendant's proceedings to be scandalous, frivolous and vexatious — the documents indicate that in four separate proceedings, the courts have made such findings about the defendant's litigation.

[35] This court too, had found all the nine interlocutory applications filed herein were scandalous, frivolous and vexatious. They covered the same issues and the applications for a stay was repeatedly filed coupled and couched in the applications under various ROC orders. This court noted that a total sum of RM104,320 was ordered by the courts to pay as costs to the defendant. It is learned that he had yet to pay the sum which remains due and outstanding to today.

[36] The defendant had demonstrated that he has no intention of curbing this 'habit' as at the hearing of arguments for encl 1, this court was notified that he had filed at the Shah Alam High Court an application to injunct the plaintiff from pursuing the reliefs prayed for in this suit whilst this suit was ongoing amid disposal. To this court's mind, that amounted to an abuse of court process.

[37] In this court's assessment of encl 1, this court applied the trite legal position where 'in evaluating affidavit evidence, where one party makes a positive assertion upon a material issue, the failure of his opponent to contradict it is usually treated as an admission by him of the fact so asserted' — held by the Court of Appeal in *Ng Hee Thoong & Anor v Public Bank Bhd* [1995] 1 MLJ 281.

[38] This court viewed that the defendant was deemed to admit the facts averred to by the plaintiff in its various affidavits (see *Abdul Razak Ahmad v Majlis Bandaraya Johor Bahru* [1995] 2 MLJ 287).

[39] Paragraph 17 to the Schedule of the CJA that was referred to by the learned counsel for the plaintiff was taken into consideration by this court. It provides that:

> Vexatious litigants
>
> Power to restrain any person who has habitually and persistently and without reasonable cause instituted vexatious legal proceedings in any court, whether against the same or different persons, from instituting any legal proceedings in any court save by leave of a Judge. A copy of any such order shall be published in the Gazette.

[40] This court finds that the defendant most certainly has that habit to file legal proceedings against the plaintiff. He persistently and repeatedly filed for the same prayers over the same set of facts and issues even after the courts have adjudicated on the matters. In using the term 'habit' and 'persistently', this court referred to explanation in *Attorney-General v Lai Swee Lin Linda* [2015] 5 SLR 1447; [2015] SGHC 269:

> The term 'habitually' suggest that the institution of legal proceedings occurs as a matter of course, or almost automatically when the appropriate condition, whatever they may be, exist. The term 'persistently' suggests determination, and continuing in the face of difficulty or opposition, with a degree of stubbornness.

[41] This court leaned on the decision of the Court of Appeal in *Sim Kooi Soon v Malaysia Airlines System (No 2)* [2011] 4 MLJ 728 where vexatious litigant and vexatious proceedings were defined:

> What is the hallmark of a vexatious litigant? The claimant who sues the same party repeatedly in reliance on essentially the same cause of action, perhaps with minor variations, is termed as a vexatious litigant.
>
> And a vexatious proceeding is one where the vexatious litigant had little or no basis in law and its effect was to subject the opposing party to inconvenience.

[42] This court finds that definition squarely described the defendant. It will go further to state that 'bringing inconvenience' is an understatement. The

plaintiff (and the courts) had to repeatedly allocate previous resources, time and costs to deal with each matter. In the interests of justice, this court is minded to declare the defendant a vexatious litigant to prevent further abuse of the court process. See *Yan bt Mohd Noordin (sebagai pentadbir pesaka kepada harta pusaka Hj Nordin bin Ayub @ Mat Nordin bin Yeop, si mati) v Kamal Baharein bin Nordin & Ors* [2022] MLJU 2587 and *American Express (M) Sdn Bhd v Matthias Chang Wen Chieh* [2012] 7 MLJ 489.

[43] In concluding this decision, after careful consideration of the extensive history and proceedings of and by the defendant, this court finds it necessary, to declare the defendant as a vexatious litigant. This determination arose not from a hasty assessment but from a comprehensive review of the repeated and relentless nature of the defendant's litigation conduct.

[44] The threshold for such a declaration is a weighty one, rooted in the protection of the judicial process and ensuring justice is not unduly impeded. The defendant's persistent filing of frivolous, meritless, or duplicative claims has not only burdened the courts and the plaintiff but has also undeniably hindered the fair administration of justice.

[45] This decision is not taken lightly, recognizing the fundamental right of every individual to seek recourse through the legal system. However, the incessant and unwarranted litigious behaviour displayed by the defendant necessitated this intervention to safeguard the integrity and efficiency of the judicial process.

[46] The declaration of the defendant as a vexatious litigant is not intended to thwart legitimate grievances or prevent access to justice but serves as a measure to curtail the abuse of legal proceedings. It is incumbent upon the defendant to adhere to this declaration, and any future applications for legal action must first obtain leave from the court. While this pronouncement reflects a regrettable necessity, it stands as a safeguarding measure essential for the preservation of the judicial system's effectiveness and integrity.

THIS COURT'S ORDERS

[47] A declaration that the defendant is a vexatious litigant.

[48] The defendant is barred from initiating any further legal proceeding in any courts in Malaysia, except with the leave of the High Court of Malaya.

[49] The declaration and the orders above be published in the *Gazette*.

[50] Costs of RM40,000 awarded to the plaintiff on an indemnity basis

having regard that this suit was filed in June 2022 and was fixed for hearing on five previous occasions.

[51] A penal endorsement is given to this court's order.

Order accordingly.

Reported by Nabilah Syahida Abdullah Salleh